

Customer No. 26874

**PATENT**

Attorney Docket: 10872.0517745

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

Applicant: Whitsett et al. : Paper No:  
Serial No. 10/772,716 : Group Art Unit:  
Filed: February 5, 2004 : Examiner:  
For: DIAGNOSIS, PROGNOSIS AND TREATMENT OF PULMONARY  
DISEASES

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION UNDER 37 CFR 1.181 TO ASSERT THAT DRAWINGS ARE  
UNNECESSARY UNDER 35 U.S.C. 113 AND TO ASSERT THAT THE  
ORIGINAL FILING DATE OF THE APPLICATION SHOULD BE  
REINSTATED**

Sir:

Applicant's submit a petition under 37 CFR 1.181 and respectfully request that the patent application be accorded the filing date of February 2, 2004 as drawings in the application are not necessary under 35 U.S.C. 113.

**Statement of the Facts** begins on page 2 of this paper.

**Points to be Reviewed** begin on page 3 of this paper.

**Action/Relief Sought** begins on page 4 of this paper.

### **Statement of Facts**

United States Patent Application Serial No. 10/772,716 to Whitsett, et al. was filed in the USPTO on February 5, 2004. A Notice of Incomplete Non-Provisional Application was mailed by the USPTO on April 9, 2004. An amendment is filed concurrently with this petition deleting all references to drawings from the 10/772,716 application.

The 10/772,716 application filed by Whitsett is directed solely to the chemical arts, where drawings are not necessary for the understanding of the subject matter sought to be patented.

### **Points to be Reviewed**

Drawings are not required under 35 U.S.C. 113 in the United States Patent Application Serial No. 10/772,716, filed by Whitsett et al. The amendment filed concurrently with this petition deletes all of the references to figures in the application. Because the application is directed solely to the chemical arts, drawings are not necessary for the understanding of the matter sought to be patented in accordance with 35 U.S.C. 113.


Applicant respectfully submits that the initial filing date of February 5, 2004 should be accorded to the United States Patent Application Serial No. 10/772,716 because, at the time of filing, drawings were not necessary for an understanding of the subject matter sought to be patented. The concurrently filed amendment deleting all of the references to the figures clarifies that drawings were not necessary, upon initial filing, for an understanding of the invention due to its chemical nature.

**Relief/Action Sought**

Applicant respectfully submits that United States Patent Application Serial No. 10/772,716, filed by Whitsett, et al., should be accorded the initial filing date of February 5, 2005.

Respectfully submitted,

Jeffrey A. Whitsett, et al.

By 

Stephen R. Albainy-Jenei  
Registration No. 41,487  
Attorney for Applicant(s)  
FROST BROWN TODD LLC  
2200 PNC Center  
201 East Fifth Street  
Cincinnati, Ohio 45202  
(513) 651-6839

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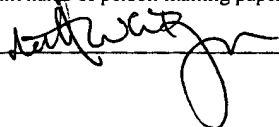
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I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR §1.10 on the date indicated above and is addressed to Mail Stop: Provisional Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Matthew G. Burgan

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